

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

STATE OF NEW MEXICO, *ex rel.*
State Engineer

Plaintiff,

v.

ROMAN ARAGON, *et al.*,

Defendants.

69cv07941-MV/KK

RIO CHAMA STREAM SYSTEM

Section 3: Rio Cebolla

NOTICE AND ORDER TO SHOW CAUSE
IN THE RIO CEBOLLA SUBSECTION
OF SECTION 3 OF THE RIO CHAMA STREAM SYSTEM

To: All Defendants in the Rio Cebolla Subsection,
Section 3 of the Rio Chama Stream System

I. PRIORITY DATES

You are hereby notified that the Court has entered an order requiring you to file an objection with the Court if you disagree with the State's proposed determination of the priority date of your water rights, or the priority date for any other water rights, for lands irrigated under ditches located in the Cebolla Subsection of Section 3 of the Rio Chama Stream System.

A. Pre-1907 Surface Water Irrigation Rights

The State of New Mexico ("the State") proposes the following priority dates for pre-1907 water rights associated with the ditches listed below. Ditches that convey water with both pre-1907 and post-1907 water rights are marked with an asterisk (*). The acreage for post-1907 water

rights is detailed in paragraph I. B below titled “Lands Irrigated under an Approved Permit or Final License from the State Engineer.”

<u>DITCH</u>	<u>PRIORITY DATE</u>
Acequia del Pinavetal *	1883
Acequia Madre de Cebolla	1875
Alto Ditch*	1889
Atencio North Ditch	1882
Atencio South Ditch	1882
Canuto Valdez Ditch	1897
Cordova-Maes North Ditch	1875
Emiliana Maes South Ditch	1906
Felipe Archuleta Ditch	1903
H.B. and G.C.-Martinez Ditch	1878
Julian Serrano Ditch	1906
Maes South Ditch	1876
Martinez-Cordova North Ditch	1879
Martinez-Cordova South Ditch	1879
Montano-Martinez Ditch	1882
Nicomedes Trujillo Ditch	1904
Old Valdez Ditch	1878
Quintana Ditch	1875
Sanchez Ditch	1898
CHCB-001-0002	
Ernest Sanchez	

Margie K. Sanchez

Sanchez Ditch	1905
CHCB-001-0007	
Charlie Chacon,	
Geralda M. Chacon	
Skelly-Maes Ditch	1906
Trujillo-Lopez Ditch	1898
Unnamed Ditch No. 1	1875
Unnamed Ditch No. 2	1875
Venceslao Martinez Ditch	1886

The priority dates described above will apply to all individual irrigation water rights served by the ditches listed, unless you or other persons file objections. The priority dates for ditches listed above will also apply to any spring that serves as a source of water for irrigators under those ditches, and which is described in an individual subfile order filed with the Court.

In cases where defendants in the Cebolla Subsection have previously agreed with the State on the priority for their water rights, and those priority dates have been incorporated into subfile orders entered by the Court, those priority dates cannot be challenged by those defendants. However other persons with standing may file objections.

B. Lands Irrigated under an Approved Permit or Final License from the State Engineer

Please note: if you have both pre-1907 and post-1907 water rights on a single ditch, only the post-1907 water rights acreage is detailed below.

<u>SUBFILE, CLAIMANT</u>	<u>OSE LICENSE, DITCH</u>	<u>ACRES</u>	<u>PRIORITY DATE</u>
CHCB-001-0001F Azalea Maes Celeste Maes Immanuel Maes Joshua Maes Lorie Martinez Petra Maes	No. 2686 Aequia del Pinavetal	10.60	November 21, 1949
CHCB-001-0004 Tobias H. Sanchez	No. 2738 Aequia del Pinavetal	1.70	August 3, 1951
CHCB-003-0001 Galina V. Vigil Frederick R. Vigil	No. 2631 Alto Ditch	23.30	March 29, 1948
CHCB-003-0002 Pablo Archuleta Jr. Juan Archuleta	No. 2631 Alto Ditch	25.10	March 29, 1948
CHCB-003-0022 Adela Martinez David R. Martinez	No. 2631 Rincon Blanca Ditch	20.00	March 29, 1948
CHCB-006-0001 Arthur F. Hibner Revocable Trust	No. 2658 Sixto Alire Ditch "A"	47.30	November 18, 1948
	No. 2658 Sixto Alire Ditch "B"	21.80	November 18, 1948
	No. 2658 Sixto Alire Ditch "C"	63.50	November 18, 1948
	No. 2658 Emiliana Maes North Ditch	28.10	November 18, 1948
CHCB-007-0001 Jedburgh Ltd.	No. 2631 Rincon Blanca Ditch	10.00	March 29, 1948

CHCB-007-0002A Donna M. Martinez Leroy A. Martinez	No. 2631 Rincon Blanca Ditch	15.00	March 29, 1948
CHCB-007-0002B Martinez Ranch Partnership	No. 2631 Rincon Blanca Ditch	30.00	March 29, 1948
CHCB-007-0003 Gustavo Martinez Rosina Martinez	No. 2631 Rincon Blanca Ditch	40.90	March 29, 1948
CHCB-007-0004 Mary Jo Martinez	No. 2631 Rincon Blanca Ditch	17.30	March 29, 1948
CHCB-007-0005 Heirs of Gilberto Martinez	No. 2631 Rincon Blanca Ditch	4.80	March 29, 1948
CHCB-007-0007 Alice Martinez Max D. Martinez	No. 2631 Rincon Blanca Ditch	2.00	March 29, 1948
CHCB-008-0001 Clyde C. Baker Theresa Baker	No. 2631-2735 Rincon Blanca Ditch	320.00	March 29, 1948

Transferred Water Rights:

<u>MOVE-TO LOCATION</u>	<u>DITCH</u>	<u>OSE PERMIT</u>	<u>PRIORITY DATE</u>
CHCB-002-0001B Charlie Chacon Geralda M. Chacon	Chacon Ditch	No. 0636-D	1883

II. IRRIGATION WATER REQUIREMENTS

In addition, you are hereby notified that the Court has entered an order requiring you to file and objection with the Court if you disagree with the State's proposed determination of the irrigation water requirements for surface water irrigation use in the Cebolla Subsection. The

State's proposed irrigation water requirements are categorized below under two headings: "Pre-1907 Surface Water Irrigation Rights" and "Lands Irrigated under a Permit or License from the State Engineer."

A. Pre-1907 Surface Water Irrigation Rights

The State proposes the following irrigation water requirements for pre-1907 surface water irrigation use in the Cebolla Subsection:

- a. The weighted consumptive irrigation requirement (CIR) is 1.09 acre-feet per acre per annum.
- b. The farm delivery requirement (FDR) is 2.725 acre-feet per acre per annum.
- c. The project diversion requirement (PDR) is 4.54 acre-feet per acre per annum.

The ditches in the Cebolla Subsection to which these amounts apply are those identified in paragraph I. A above (Pre-1907 Surface Water Irrigation Rights), with the exception of those lands that are irrigated under an approved permit or final license issued by the Office of the State Engineer, which lands are identified in paragraph I. B above (Lands Irrigated under an Approved Permit or Final License from the State Engineer). The irrigation water requirements for lands irrigated under an approved permit or final license issued by the Office of the State Engineer are identified in paragraph II. B below (Lands Irrigated under an Approved Permit or Final License from the State Engineer).

The irrigation water requirements in the Cebolla Subsection described above do not include diversion requirements associated with stockwatering, stockponds, or other impoundments having valid water rights, which will be determined at a later date in these proceedings.

B. Lands Irrigated under an Approved Permit or Final License from the State Engineer

OSE LICENSE NO. 2686

Acequia del Pinavetal

CHCB-001-0001F

- a. CIR = 1.09 acre-feet per acre per annum.
- b. FDR = 3.00 acre-feet per acre per annum.
- c. PDR = 5.00 acre-feet per acre per annum.

OSE LICENSE NO. 2738

Acequia del Pinavetal

CHCB-001-0004

- a. CIR = 1. 09 acre-feet per acre per annum.
- b. FDR = 3.00 acre-feet per acre per annum.
- c. PDR = 5.00 acre-feet per acre per annum.

OSE LICENSE NO. 2658

Sixto Alire "A," "B," and "C;" and Emiliano Maes North Ditches

CHCB-006-0001

- a. CIR = 1. 09 acre-feet per acre per annum.
- b. FDR = 3.00 acre-feet per acre per annum.
- c. PDR = 5.00 acre-feet per acre per annum.

OSE LICENSE NO. 2631

Alto Ditch

CHCB-0003-0001; CHCB-003-0002

- a. CIR = 1. 09 acre-feet per acre per annum.
- b. FDR = 3.00 acre-feet per acre per annum.
- c. PDR = 5.00 acre-feet per acre per annum.

Under OSE License No. 2631, from April 1st to October 1st of each year, water may be diverted into the Alto Ditch at the rate and in the amount of surplus or rejected flows as indicated by the flow at the mouth of El Rito de la Cienega Redonda or the flow of Cebolla Creek just below the mouth of Emiliana Maes North Ditch, whichever is the lesser. During the remainder of the year, from October 1st to April 1st, water may be diverted into the Alto Ditch

at a rate of 15 cubic feet per second at times needed.

OSE LICENSE NOS. 2631; 2631-2735

Rincon Blanca Ditch

CHCB-003-0022; CHCB-007-0001; CHCB-007-0002A; CHCB-007-0002B; CHCB-007-0003; CHCB-007-0004; CHCB-007-0005; CHCB-007-0007; CHCB-008-0001

- a. CIR = 1.09 acre-feet per acre per annum.
- b. FDR = 3.00 acre-feet per acre per annum.
- c. PDR = 5.00 acre-feet per acre per annum.

Under OSE License Nos. 2631 and 2631-2735, from April 1st to October 1st of each year, water may be diverted into the Rincon Blanca Ditch at the rate and in the amount of surplus or rejected flows as indicated by the flow at the mouth of El Rito de la Cienega Redonda or the flow of Cebolla Creek just below the mouth of Emiliana Maes North Ditch, whichever is the lesser. During the remainder of the year, from October 1st to April 1st, water may be diverted into the Rincon Blanca Ditch at a rate of 15 cubic feet per second at times needed.

OSE LICENSE NO. 0636-D

Chacon Ditch

CHCB-002-0001B

- a. CIR = 1.09 acre-feet per acre per annum.
- b. FDR = 3.00 acre-feet per acre per annum.
- c. PDR = 5.00 acre-feet per acre per annum.

The term “Consumptive Irrigation Requirement” (CIR) refers to the quantity of water, expressed in acre-feet per year, exclusive of effective precipitation, that is consumptively used by plants or is evaporated from the soil surface during one calendar year. The term “Farm Delivery Requirement” (FDR) refers to the quantity of water expressed in acre-feet per acre per year, exclusive of effective precipitation, delivered to the farm headgate or which is diverted from a source of water which originates on the farm itself, such as a well or spring, necessary to satisfy the consumptive irrigation requirements of crops grown on a farm in one calendar year. The term

“Project Diversion Requirement” (PDR) refers to the quantity of water expressed in acre-feet per acre per year, exclusive of effective precipitation, which is diverted from the stream or an off-farm source to satisfy the farm delivery requirement for one calendar year.

The irrigation water requirements set forth above do not include diversion requirements associated with stockwatering, stockponds, or other impoundments determined to have valid water rights in these proceedings.

III. OBJECTIONS

You are hereby notified that you are required to file an objection with the Court if you disagree with the State’s proposed determination of the priority date or irrigation water requirements for your water rights, or the priority date or irrigation water requirements for any other water rights, for irrigated lands in the Cebolla Subsection. If you agree with the priority dates and irrigation water requirements described above, you do not need to take any action.

In cases where defendants in the Cebolla Subsection have previously agreed with the State on priority dates for their water rights or the irrigation water requirements for their water rights, and those priority dates or irrigation water requirements have been incorporated into subfile orders entered by the Court, those priority dates or irrigation water requirements cannot be challenged by those defendants. However, other persons with standing may file objections.

If objections are filed by any person, you will be notified of the objections and may participate in proceedings to resolve those objections. In the absence of any objections, you will have no other opportunity in these proceedings to object to the determination of priority dates or irrigation water requirements in the Cebolla Subsection, and subsequent *inter se* proceedings in the Cebolla Subsection will not include the opportunity to object to those determinations. If no

objections are filed, the Court will enter an order that recognizes those elements of your water rights and the water rights of other surface water users in the Cebolla Subsection as described above. If you disagree, you must follow the instructions below.

IT IS THEREFORE ORDERED THAT if you object to any of the priority dates stated above, or the irrigation water requirements for surface water irrigation use in the Cebolla Subsection as stated above, you must file the form entitled Objection and Response to Notice and Order to Show Cause with the Court, in person or by mail **FOR RECEIPT NO LATER THAN DECEMBER 11, 2017** to:

**United States District Court Clerk
333 Lomas Blvd. NW
Suite 270
Albuquerque, NM 87102**

If you timely file an objection, the United States District Court for the District of New Mexico will notify you of a mandatory scheduling and pretrial conference, where you will learn how objections will be heard by the Court. This will be your only opportunity to object to these elements of your own water rights, or these elements of any other water rights, in the Cebolla Subsection. If you fail to timely object you may not raise objections in the future.

If you have any questions, please call or write:

Felicity Strachan
Special Assistant Attorney General
Office of the State Engineer
P.O. Box 25102
Santa Fe, NM 87504-5102
(505) 827-3989
felicitystrachan@state.nm.us

or
John W. Utton
Attorney for *Asociación de Acéquias Norteñas de Rio Arriba*
Utton & Kery, P.A.
317 Commercial, N.E., Suite 316
Albuquerque, NM 87102
(505) 699-1445
john@uttonkery.com

IT IS SO ORDERED.



KIRTAN KHALSA

UNITED STATES MAGISTRATE JUDGE